prime purpose is in reference to a concrete result—the disposition of a cause on the merits. He thinks of precedents, but they are more like restraints than guides. It is natural to every man to believe that he is possessed of an intuitive sense of justice which needs no prods or fetters. His inclination is to debate within himself, in each case, whether he should go the length a precedent invites or stop at the point a precedent defines. If the precedent is not in accord with his own sense of justice, he is inclined to distinguish it away or squarely repudiate it. In a word, he wishes to do justice, but it is his own justice he wishes to do.

"Further than this, he wishes, if he can, to do justice in his own way, and rules and forms may seem to him either as merely declaratory of his own plan, and, therefore, largely superfluous, or he is impatient of them as making him do something he does not wish to do. Also the judge tires of unending discussion about the interpretation and practical application of these mere accessories of the law.

"That a court cannot go directly to the heart of controversies it is established to decide, after it has tried so hard to end discussion about preliminaries, is a covert reflection on its intelligence, and it is merely human they should become weary about them. Also it may be said that just as the practitioner is inclined to believe that fixed rules are the only safe course, judges may conceive themselves able to mould a less exact system into a good working plan. At the same time, if judges were left to devise and formulate their own system, they would make each rule as universal as they could and one regulation consistent with another. There is sufficient disposition on the part of everyone to try to do this much. The judge, like the counsel before him, wants certainty, but the judge may not care so much about its according with old precedents as the counsel. The judge would be willing to trust to the judiciary developing and correcting the accessories to justice, while the counsel might think that this development and amendment would endanger the harmony of an original plan.

"Something, all agree, must be done. What is the best course to pursue? To our mind legislative tampering with a code is a distinct failure. Responsibility should be placed somewhere else. We believe there is but one of two methods left—either that suggested by Judge Evans or to devolve the duty on the judges of courts of record." R. H. G.

Criminal Procedure.—The following is taken from the *National Corporation Reporter* of August 31:

"In a recent address before the New Jersey Bar Association, its president said that 'a more complete, wise and excellent structure of criminal legal procedure than that furnished by the common law for the protection and security of the individual and the punishment of evil-doers, is not to be found in the code of any nation upon the face of the earth. It does not contain a single requirement that has not been the direct result of the experience of ages.' We presume that the learned speaker referred to criminal legal procedure as it exists to-day in this country, for in England, until long after our separation from that country, a person accused of crime could not testify in his own behalf and was denied the services of counsel on his trial.

"It would be interesting to have the opinion of an intelligent layman on this optimistic description of criminal procedure—some layman who, for a year, had kept track of the crimes committed, let us say, in the city of Chicago, of

the length of time elapsing between the arrest of the prisoner and final sentence, and of the number of convictions as compared both with the number of crimes and the number of indictments. Of this much of his opinion we may be certain, and that is, that he would have serious doubts of the good faith of any lawyer who, in view of the results of our system of criminal procedure, would lift a voice in its praise. But lawyers know that Bar Association oratory is very apt to lead to extravagance of language, of which, in a cooler moment the learned speakers would not be guilty.

"The purpose of a trial is to determine as quickly as possible, consistently with a fair trial, whether the defendant is guilty of the crime with which he is charged, and to secure a conviction, if he is guilty. Judged by this standard, the American system of criminal procedure is probably worse than the criminal procedure of any civilized country. Some of its defects are too firmy embedded in State constitutions or public opinion to allow of any hope of their removal within the immediate future, such, for instance, as the prohibition against the examination of the prisoner, either at or before the trial, the unanimous verdict, etc. But many other features of our criminal procedure have been grafted on the old common-law procedure, either by the legislature or by judicial rulings, and can be gotten rid of as soon as public opinion can be led by an awakened sense of public duty in the members of the bar. As an illustration of these excrescences, we refer to an article by the Hon. Wm. P. Lawlor, Judge of the Superior Court of California, contributed to a recent number of the *Journal of the American Institute of Criminal Law and Criminology*. The fifteen pages of this painstaking contribution towards procedural reform are packed with instances of obstacles interposed by the courts or the legislature to the speedy and efficient disposition of criminal charges. Many of these are local to California, but others are found, more or less, in other States. Among these is the gross abuse by the defendant's counsel of the right to tender instructions. Judge Lawlor states that in a recent case tried in San Francisco nearly two hundred instructions were proposed, containing in the neighborhood of 35,000 words—enough to make a volume of 75 to 100 pages. Of course, the only purpose of presenting those instructions was to confuse the minds of the jurors and establish a false standard for their guidance by telling them in two hundred different ways that, if such and such facts existed, they must find the defendant not guilty.

"Laymen will always judge the courts by their results. If they see that only one crime in three is punished, that rich criminals are able either to escape punishment altogether or defer the evil day for years, until the public has almost forgotten the offense, and then go free, after minimum punishment, because of the clemency of a weak governor or the venality of a parole board—if they see a system of extreme technicality administered so as to produce a new trial or a reversal on appeal, in two cases out of three, where the defendant is able to hire capable counsel—they will inevitably conclude that the system is a bad one, and that the lawyers who created the system, in one way or another, are responsible for its defects, and that they keep it in its existing condition of inefficiency because it is to their advantage to have it so. It is idle to tell them that a criminal trial under our system of procedure is a wonderful exhibition of technical skill and that every element of that system 'has been the direct result of the experience of ages.' Their answer would always

be that the system which produces such results as our system produces is a bad system. And they would be right." R. H. G.

The New Jersey Legal Aid Society.—Mr. Theodore Gottlieb describes the work of the New Jersey Legal Aid Society in the *New Jersey Law Journal* for June. The society was established, he says, about ten years ago, with the policy of the New York Society as a model, and is an incorporated charitable society endorsed by the committee of the Board of Trade. "It is founded on the democratic principle that justice is a matter of right to all men, and, despite many inequalities inherent in our social, political and legal systems, it aims, nevertheless, to place the rich and the poor on a substantial equality before the law. The object and purpose of all legal aid work is well stated in the platform of the Chicago society:

First. To assist in securing legal protection against injustice for those who are unable to protect themselves; and this is accomplished by assisting such deserving persons who are financially unable to employ an attorney to prosecute or defend a just cause, the Society maintaining an attorney for that purpose.

Second. To take cognizance of the working of existing laws and methods of procedure and to suggest improvements.

Third. To prepare new and better laws, and to make efforts toward securing their enactment and enforcement.

There are several large and cosmopolitan cities in New Jersey where dwell thousands of poor, ignorant and defenseless aliens, and these, and often our native intelligent poor as well, are victims of oppression and are plundered because they have not the means to invoke the law in their behalf or to protect themselves. The ordinary dispute arising out of contract fraud, detention of chattels or disputes with landlords cannot be settled without investigation and often must be taken to a district court for redress. This court is known as the "poor man's court," because the fees for summons, constable and other court charges are small, amounting to about five dollars per case, exclusive of an attorney fee of five to twenty-five dollars, but often these costs alone are an insurmountable barrier to the poor client with a valid claim, and thus 'equality before the law' is, in that specific case, but an empty, high-sounding and meaningless phrase.

These small cases are important; they cannot and should not be ignored. The alien, the defenseless and the victimized, smarting under the sting of an injustice, must be taught respect for American law and institutions, and that the basic principle of law is equality; and the start in the right direction is made when we teach them that there is justice for the poor and the oppressed. The New Jersey Legal Aid Society has offices with the Bureau of Associated Charities, and branch offices in Hoboken and Jersey City, where its attorneys may be consulted by applicants, correctly advised of their legal rights, and, if necessary, the appropriate legal steps are taken for the redress of grievances.

Since its organization the Society has disposed of over 7,500 cases of all kinds, the greatest number of single matters being wage and service claims. In this matter it has been of great service to the poor servant, the ignorant farm hand and foreign mechanics, all too poor pay for enforcing their legal rights. All cases of this nature are investigated, a letter written, followed, if necessary, by a personal call and, in some cases, by suit in the district court.